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REWARDS—REWARD FOR INFORMATION LEADING TO "CONVICTION" NOT DUE ON THE DEFENDANT'S DEATH PENDING APPEAL FROM CONVICTION.—The robbery of an express messenger was committed by two men, then unknown, and the defendant express company offered a reward for "first information" leading to the arrest and conviction of each of these men. Relying on this offer, the plaintiff furnished information and performed other services which led to the arrest of one of the suspected robbers, and his conviction in the lower court. After his conviction, the accused took an appeal to the higher court, was liberated on bond pending that appeal, and before his case was reached, he died. After the accused died, plaintiff filed suit to recover the reward offered. Defendant demurred to the evidence, claiming it was not liable because the accused having died pending his appeal, his death abated the proceedings against him, and therefore no final conviction. *Held*, the demurrer sustained. *Scott v. American Express Co.* (Mo. App.), 233 S. W. 492 (1921).

A contract offering a reward for the conviction of criminals is governed by the rules which apply to other contracts. *Tobin v. McComb* (Tex. Civ. App.), 156 S. W. 237 (1913). The offeror may prescribe whatever terms he sees fit, and such terms must be substantially complied with before a recovery can be had upon the contract. *Jones v. Phoenix Bank*, 8 N. Y. 228 (1853); *Zwolanek v. Baker Mfg. Co.*, 150 Wis. 517, 137 N. W. 769 (1912). Only a substantial compliance with the terms is necessary, however. *Besse v. Dyer*, 9 Allen (Mass.) 151, 85 Am. Dec. 747 (1864); *Zwolanek v. Baker Mfg. Co.*, *supra*.

In construing the offer on which the plaintiff relied in the instant case, the chief question was the construction to be placed upon the word "conviction". In the instant case, the court held that the offeror contemplated a final conviction when he made the offer. While in a strict legal sense it may be used to denote the final judgment of a court of competent jurisdiction making the punishment of the offender certain, yet in common parlance it is taken to mean the verdict at the time of the trial. And it has been held that the ordinary legal meaning of "conviction" is a plea of guilty or the verdict of the jury finding the party guilty, and does not refer to the termination of the legal proceedings. *Commonwealth v. Lockwood*, 109 Mass. 323, 12 Am. Rep. 699 (1872); *Quintard v. Knoedler*, 53 Conn. 485, 2 Atl. 752, 55 Am. Rep. 149 (1885). So, under this view, a reward for the "conviction" of a person charged with crime is earned by the prosecution of and plea of guilty by one accused, although sentence is suspended and punishment is never imposed. *Wilmoth v. Hensel*, 151 Pa. 200, 25 Atl. 86, 31 Am. St. Rep. 738 and note (1892).

In civil actions, on the death of one of the parties, the judgment of the trial court remains in force as a valid judgment, and the death does not ordinarily abate or destroy the cause of action. For example, as a general rule, the death of a party pending a writ of error furnishes no ground for abatement of the suit. *Green v. Watkins*, 6 Wheat. (U. S.) 260 (1821); *Roberts v. Criss*, 266 Fed. 296 (1920). In criminal cases, however, the purpose of the proceeding being to punish the defendant in person, the action must necessarily abate upon his death. *Holmes v.*

State, 13 Okl. Cr. App. 257, 163 Pac. 1112 (1917); *Rutherford v. State*, 84 Tex. Cr. App. 503, 208 S. W. 917 (1919). And it has been held, in a suit on an insurance policy which provided that it should be void if the insured be convicted of a felony, where the insured was tried in the lower court and convicted of a felony, but took an appeal to the higher court, and died pending this appeal, the insured's widow, the beneficiary, could recover as though there had been no prosecution. *Baker v. Modern Woodmen of America*, 140 Mo. App. 619, 121 S. W. 794 (1909). It has also been held that the party claiming a reward for arrest and conviction while the appeal in the criminal case was pending, could not recover as there had been no final conviction. *Stone v. Wickliffe*, 106 Ky. 252, 50 S. W. 44 (1899). With the exception of the last two cases cited, no support has been found for the decision in the instant case; and it is submitted that although it is a possible construction of the meaning of "conviction", nevertheless it imposes very hard restrictions upon the person claiming the reward in such a case.

The question involved here does not seem to have been passed on in Virginia.